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**IN THE HIGH COURT OF MADHYA PRADESH  
AT INDORE**

**BEFORE  
HON'BLE SHRI JUSTICE PRANAY VERMA**

**ON THE 28<sup>th</sup> OF FEBRUARY, 2023**

**WRIT PETITION No. 2302 of 2023**

**BETWEEN:-**

**RADHESHYAM GAMAD S/O LATE NATHAJI, AGED ABOUT 52 YEARS, OCCUPATION: PROFESSOR DEPARTMENT OF ELECTRONIC AND INSTRUMENTATION GSITS INDORE 2A PUSHPOVIHAR EXT. IN FRONT OF SUNCITY POWERHOUSE, MAHALAXMI NAGAR, MAIN ROAD. DISTRICT INDORE. (MADHYA PRADESH)**

**.....PETITIONER**

**(BY SHRI PANKAJ KUMAR JAIN - ADVOCATE)**

**AND**

- 1. THE STATE OF MADHYA PRADESH TECHNICAL AND SKILL DEVELOPMENT DEPARTMENT THROUGH PRINCIPAL SECRETARY DISTRICT BHOPAL. (MADHYA PRADESH)**
- 2. DIRECTORATE OF TECHNICAL EDUCATION THROUGH DIRECTOR 4TH FLOOR, SATPURA BHAWAN, BHOPAL (MADHYA PRADESH)**
- 3. DIRECTOR AND MEMEBER SECRETARY GOVT. BODY SHRI G.S. INSTITUTE OF TECHNOLOGY AND SCIENCE LANTERN SQUARE, INDORE (MADHYA PRADESH)**

**.....RESPONDENTS**

**(BY MS BHARTI LAKKAD - GOVERNMENT ADVOCATE)**

*This petition coming on for admission this day, the court passed the following:*

**ORDER**

1. By this petition preferred under Article 226 of the Constitution of India the petitioner has challenged the order dated 09.01.2023 (Annexure-P-5)

passed by respondent No.3 placing him under suspension in exercise of powers under Rule 9 (1) of M.P. Civil Services (Classification, Control and Appeal) Rules, 1966.

2. Admittedly the petitioner has a remedy of preferring an appeal before the appellate authority against the impugned order under Rule 23 of the Rules, 1966. However in paragraph No.3 of the petition the petitioner has declared that there is no alternate remedy available for getting speedy justice except this petition. It has not been stated by the petitioner that either there is no alternate remedy available to him or that the remedy available is not efficacious. The statement that no alternate remedy is available for getting speedy justice is neither here nor there. Merely because an alternate remedy in the opinion of the petitioner would not be speedy, the same cannot be decided to be bypassed by him.

3. The learned counsel for the petitioner has submitted that the impugned order has been passed without hearing the petitioner and in an arbitrary manner without there being any substantial material to show that alleged offence has been committed by him. A false complaint has been made against the petitioner when he refused to give question papers to the complainant and her friends. The order of suspension is bad in law and is passed in violation of principles of natural justice. The discretion has not been exercised on sound judicial principles. Lodging of FIR itself is not sufficient for suspension. It is only when a challan for a criminal offence involving corruption or moral turpitude is filed against the employee or when the Government servant is detained in custody for more than 48 hours, the suspension could be directed.

4. In the order of suspension it has been stated that the petitioner is

being placed under suspension inter alia on the complaint of a girl student of First year as regards physical inappropriate behavior having been committed by the petitioner for which he has prima facie been found to be guilty of. The order does not state that he is being placed under suspension only because of registration of FIR against the petitioner. The contention of petitioner that he has been placed under suspension only for the fact of registration of FIR against him is hence not factually correct.

5. The grounds which have been raised by the petitioner for challenging his suspension order are all factual in nature and can better be appreciated by the appellate authority in a duly constituted appeal. Such questions of facts for the first time are not required to be adjudicated upon by this Court in exercise of power under Article 226 of the Constitution of India. Since it is not a case of inherent lack of jurisdiction, it is not a fit case for exercise of writ jurisdiction bypassing the alternate remedy available to the petitioner.

6. Thus, in view of the aforesaid, I do not deem it to be a fit case for exercise of powers under Article 226 of the Constitution of India in view of alternate remedy of appeal available to the petitioner.

Admission is declined. Petition is dismissed.

**(PRANAY VERMA)**  
**JUDGE**

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